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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,561	07/31/2001	Kazushige Yoshioka	AK-356XX	4967

207 7590 10/03/2002

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BOSTON, MA 02109

EXAMINER

GRAY, JILL M

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 10/03/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/919,561

Applicant(s)

YOSHIOKA ET AL.

Examiner

Jill M Gray

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

More specifically, claim 1, is vague and indefinite. The components of the fiber insulator are not specifically identified; hence, the limitation of "natural feathered fiber as composition material by 1 to 99 weight %" is indefinite and unclear. Also, the total weight basis of the composition material is not defined and it is not clear as to what the language "by 1 to 99 weight %" refers to. Accordingly, the metes and bounds for which patent protection is being sought are not clear.

Claim 2 is indefinite for the reasons set forth above.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

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(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Gassner 6,027,608.

Gassner teaches products that can be formed from natural feathers and synthetic binder fibers, wherein said products can be insulation materials as required by claims 1 and 2. See column 2, lines 58-61 and Example 7. The amounts of feathered fibers and synthetic fibers necessarily are within the range claimed by applicants. Accordingly, the teachings of Gassner anticipate the invention as claimed in claims 1 and 2.

5. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Keller, US 2002/0007900 A1.

Keller teaches a composite feather material essentially as claimed by applicants comprising natural feathers and synthetic binder fibers as required by claims 1 and 2. In addition, Keller teaches amounts within applicants range. See abstract, page 1, sections 0009 and 0018. Accordingly, Keller anticipates the invention as claimed in the present claims 1 and 2.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keller '900 or Gassner '608, each as applied above to claims 1 and 2, and each in view of Kean et al, 5,491,186 (Kean).

Keller and Gassner are each as set forth above and teach insulation products comprising feathered fibers and synthetic binder fibers. Keller and Gassner are silent as to the specific utility of sheath/core fibers having an olefin sheath component.

Kean teaches insulation products formed from natural fibers, binder fibers and optionally lofting fibers, wherein the binder fibers can be sheath/core bicomponent fibers comprising an olefin sheath component and higher melting core component, as required by applicants claim 3.

Sheath/core binder fibers having an olefin sheath are well known in the art as evidenced by the teachings of Kean. The teachings of Keller of "thermoplastic material binder such as polypropylene and polyethylene" (page 1, section 0006) and "thermoplastic fiber binder" (page 1, section 0009) would have provided a suggestion to the skilled artisan of the suitability of polyolefin binder fibers. One of ordinary skill in the art at the time the invention was made would have been motivated to use polyolefin

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binder fibers as taught by Kean and well known in the art, as the binder fiber of Keller with the reasonable expectation of success of obtaining a thermally bondable insulation product.

Regarding Gassner, it would have been obvious to the skilled artisan to use as the olefin fibers taught in his Examples, bicomponent or sheath/core olefin fibers as taught by Kean in order to produce thermally bonded products having added support and strength.

No claims are allowed.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill M Gray whose telephone number is 703.308.2381. The examiner can normally be reached on 8:30-6:00.

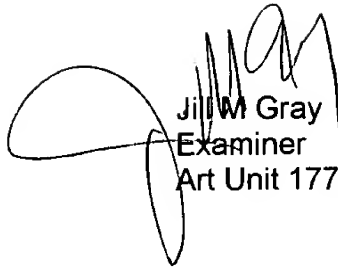
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on 703.308.0449. The fax phone numbers for the organization where this application or proceeding is assigned are 703.305.5408 for regular communications and 703.305.3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0651.

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Jill M Gray
Examiner
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jmg

September 28, 2002